

United States District Court
Southern District of New York

JERRY PINKS,

individually and on behalf of others
similarly situated,

Plaintiffs,

-against-

M & T BANK CORP.,

Defendant.

No.: 1:13-cv-1370 – LAK-RLE

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Points and Authorities, dated April 14, 2016, and upon all of the pleadings and proceedings heretofore had herein, Plaintiff Jerry Pinks will move this Court, before the Honorable Lewis A. Kaplan, at the United States Courthouse, 500 Pearl Street, New York, New York 10007, as soon as counsel may be heard, for an Order,

- Pursuant to Fed. R. Civ. P. 8(c)(2), redesignating the purported “affirmative defense” no. 14 asserted by Defendant M&T Bank based on the “doctrine of setoff” (DI 38 at p. 8, ¶ 14) as asserting conditional counterclaims against absent putative class members in the amount of any purported deficiency allegedly owed to M&T after the sale or other disposition of collateral repossessed from such absent class members, except to the extent that such claims have been discharged, satisfied or reduced to judgment, and
- Pursuant to Fed. R. Civ. P. 12(c), upon redesignation, dismissing such conditional counterclaims, under *In re Bank of New York Mellon Corp. Forex Transactions Litig.*, 42 F.Supp.2d 520 (S.D.N.Y. 2014) (Kaplan, J.), and
- such other and further relief as the Court deems just and proper.

Pursuant to Local Civil Rule 6.1(b), any opposition shall be served within fourteen

(14) days after service of the motion papers and any reply shall be served within seven (7) days after service of the opposition papers unless otherwise ordered.

Dated: New York, New York
April 14, 2016

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